

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of Freedman
Serial Number 09/887,655
Filing Date: June 22, 2001
Art Unit: 2154
Examiner: Joshua Joo
For: **AUTOMATED CONTROL OF
OUTBOUND TRANSIT LINKS IN A
MULTI-HOMED BGP ROUTING
ENVIRONMENT**

Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**PRELIMINARY AMENDMENT ACCOMPANYING REQUEST FOR CONTINUED
EXAMINATION**

This paper is submitted in response to the most recent office action.

REMARKS AND REQUEST FOR RECONSIDERATION

The Examiner concedes that the Freedman declaration shows conception of the invention, however, the declaration was deemed insufficient to establish an actual reduction to practice.

Respectfully, the Examiner's contention is incorrect, for the following reasons:

- (a) Mr. Freedman stated explicitly that the software components described in Tab A "had been built," "were working" and "had [been] tested" in the United States, as of the date of the email, November 22, 2000. With all due respect, it does not appear (from the Examiner's other statements) that the Examiner has afforded any weight to these key statements. Rather, the Examiner's comments (which focus mainly on the supporting evidence of Tabs C, D and E) ignore the evidence – Tab A – by which Mr. Freedman confirms that the apparatus actually existed and worked for its intended purpose before the May 1, 2001 date. While it is true that